IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 1117 of 2003

with

CIVIL APPLICATION No 3797 of 2003

For Approval and Signature:

HON'BLE MR.JUSTICE A.M.KAPADIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

DY.COLLECTOR & LAQ OFFICER

Versus

HEIRS OF DECD.PREMJI HARJIBHAI DEVSHI PREMJIBHAI

Appearance:

1. First Appeal No. 1117 of 2003

MR KL PANDYA AGP for Appellant

MR VIMAL M PATEL for Respondent No. 1

CORAM : HON'BLE MR.JUSTICE A.M.KAPADIA

Date of decision: 29/12/2004

ORAL JUDGEMENT

1. By filing this appeal under Section 54 of the

Land Acquisition Act ('the Act' for short) read with Section 96 of the Code of Civil Procedure, the appellant - Deputy Collector and Land Acquisition Officer, Rehabilitation (Irrigation), Bhavnagar, seeks to challenge the judgment and award dated 4.5.2002 rendered in Land Acquisition Reference No.70 of 1991 together with other cognate references by the learned 5th Joint Civil Judge (S.D.)., Bhavnagar by which the references sought for by the respondent came to be partly allowed and thereby additional amount of Rs.5/- per sq.mt. for the acquired land of the respondent came to be awarded together with statutory benefits under section 23 (1A) and 23 (2) of the Act and also interest under section 28 of the Act was granted and the appellant was directed to pay the additional amount of compensation to the respondent which comes to Rs.16,223.50 Ps.

2. Heard Mr. KL Pandya, learned AGP for the appellant and Mr. Vimal Patel, learned advocate for the respondent. I have perused the impugned judgment and award and the schedule attached therewith. It is seen therefrom that as per the impugned award, additional amount of compensation awarded for the acquired land of the respondent comes to Rs.11,425/- whereas the remaining amount was awarded under other statutory benefits under Section 23 (1A) and 23 (2) of the Act and thus the total amount of Rs.16,223.50 Ps. was awarded to the respondent and the appellant was directed to pay the same.

3. It may be noted that learned single Judge of this Court as well as a Division Bench of this Court in number of matters have dismissed appeals filed by the appellant challenging the awards of the reference courts on the ground of smallness of the amount. The Division Bench of this Court (Coram: M.H. Kadri & C.K. Buch, JJ.) in First Appeal Nos.6765 of 1999 to 6804 of 1999 vide judgment dated 29.3.2000 has considered an amount of RS.25,500/- awarded to the claimant, without considering other statutory benefits, as small amount. In the said judgment it has been observed that it is the consistent practice which is followed by various Division Benches of this Court that wherein claim involved in the Land References cases is less than Rs.35,000/-, appeal should be dismissed on the ground that it involves petty claim.

4. Applying the principles laid down by the Division Bench of this Court in the judgment recorded in First Appeal Nos.6765 of 1999 to 6804 of 1999 to the facts of the present case, in the instant case, the original amount awarded to the respondent is Rs.11,425/- plus statutory benefits, which comes in all to Rs.16,223.50

and, therefore, this amount being a small amount, the appeal deserves to be dismissed on the ground of petty claim.

5. For the foregoing reasons, the appeal fails and is accordingly dismissed with no order as to costs.

6. As the First Appeal is dismissed, the Civil Application which is filed for stay of the impugned award does not assume any survival value and hence the same is also rejected. Rule is discharged with no order as to costs. Ad-interim relief granted earlier stands vacated.

7. The reference Court is directed that if the awarded amount is deposited by the appellant before it pursuant to the order dated 23.6.2003 passed by this Court in Civil Application No.3797 of 2003, the same shall be disbursed in terms of the impugned award in favour of the respondent forthwith.

(A.M. Kapadia, J.)

(karan)